

01/16/02

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01-22-2

PTO/SB/05 (11-00)  
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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UTILITY  
PATENT APPLICATION  
TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No. 499962000700

First Inventor NATHAN K. OLIVAS

Title PACER LETTUCE VARIETY

Express Mail Label No. EL 915 531 733 US

## CERTIFICATE OF MAILING BY "EXPRESS MAIL"

Express Mail Label No.: EL 915 531 733 US

Date of Deposit: January 16, 2002

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EL 915 531 733 US

CHASE J. TROMBELLA

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1.  Fee Transmittal Form (e.g. PTO/SB/17)  
(Submit an original, and a duplicate for fee processing) - 1 pg IN DUPL

2.  Applicant claims small entity status.  
See 37 CFR 1.27.

3.  Specification [Total Pages 19]  
(preferred arrangement set forth below)  
- Descriptive title of the Invention  
- Cross Reference to Related Applications  
- Statement Regarding Fed sponsored R & D  
- Reference to sequence listing, a table, or a computer program listing appendix  
- Background of the Invention  
- Brief Summary of the Invention  
- Brief Description of the Drawings (if filed)  
- Detailed Description  
- Claim(s)  
- Abstract of the Disclosure

4.  Drawing(s) (35 USC 113) [Total Sheets 1]

5.  Oath or Declaration [Total Pages 2]

a.  Newly executed (original or copy)  
b.  Copy from a prior application (37 CFR 1.63(d))  
(for continuation/divisional with Box 1b completed)

i.  REQUEST FOR CORRECTION OF INVENTORSHIP  
35 USC 116 & 37 CFR § 1.48(d) & (e)  
Signed statement attached deleting Inventor(s) named in the prior application, see 37 CFR § 1.48(e) - COURTESY COPIES of Petition & Statement as filed 1/16/02 - 9 pgs

6.  Application Data Sheet. See 37 CFR 1.76 - 2 pgs

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

7.  CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)

8.  Nucleotide and/or Amino Acid Sequence Submission  
(if applicable, all necessary)

a.  Computer Readable Form (CRF)

b.  Specification Sequence Listing on:  
i.  CD-ROM or CD-R (2 copies); or  
ii.  paper

c.  Statements verifying identity of above copies

## ACCOMPANYING APPLICATION PARTS

9.  Assignment Papers (cover sheet & document(s)) - 1 pg

10.  37 CFR 3.73(b) Statement  
(where there is an assignee)  Power of Attorney - 2 pgs

11.  English Translation document (if applicable)

12.  Information Disclosure Statement (IDS)/PTO-1449  Copies of IDS Citations

13.  Preliminary Amendment

14.  Return Receipt Postcard (MPEP 503)  
Should be specifically itemized

15.  Certified Copy of Priority Document(s)  
(if foreign priority is claimed)

16.  Request and Certification under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.

17.  Other SUBMISSION OF DATES OF FIRST SALE AND FIRST OFFER FOR SALE - 1 pg

18. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

 Continuation     Divisional     Continuation-in-part (CIP)    of prior application No: \*

Prior application information: Examiner \*    Group / Art Unit: \*

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. This incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 19. CORRESPONDENCE ADDRESS

 Customer Number or Bar Code Labelor  Correspondence address below

20872

PATENT TRADEMARK OFFICE

(Insert Customer No. or Attach bar code label here)

Name	MICHAEL R. WARD (REG. NO. 38,651)				
Address	MORRISON & FOERSTER LLP				
	425 Market Street				
City	San Francisco	State	CA	Zip Code	94105-2842
Country	U.S.A.	Telephone	415/268-6237	Fax	415/268-7522
Name (Print/Type)	MICHAEL R. WARD	Registration No. (Attorney/Agent)	38,651		
Signature	Michael R. Ward				
Date January 16, 2002					

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1/16/02  
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# FEE TRANSMITTAL FOR FY 2002

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

(\$410.00)

Complete if Known

Application Number	TO BE ASSIGNED
Filing Date	HEREWITH
First Named Inventor	Nathan K. OLIVAS
Examiner Name	To Be Assigned
Group Art Unit	To Be Assigned

Attorney Docket No. 499962000700

## METHOD OF PAYMENT

1.  The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to:

Deposit Account Number 03-1952

Deposit Account Name Morrison &amp; Foerster LLP

Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17  
 Applicant claims small entity status. See 37 CFR 1.27

2.  Payment Enclosed:

Check  Credit Card  Money Order  Other

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Fee Code	Entity Fee (\$)	Small Fee Code	Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for ex parte reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	400	216	200	Extension for reply within second month	
117	920	217	460	Extension for reply within third month	
118	1,440	218	720	Extension for reply within fourth month	
128	1,960	228	980	Extension for reply within fifth month	
119	320	219	160	Notice of Appeal	
120	320	220	160	Filing a brief in support of an appeal	
121	280	221	140	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,280	241	640	Petition to revive - unintentional	
142	1,280	242	640	Utility issue fee (or reissue)	
143	460	243	230	Design issue fee	
144	620	244	310	Plant issue fee	
122	130	122	130	Petitions of the Commissioner	
123	50	123	50	Petitions related to provisional applications	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per properties (times number of properties)	\$40
146	740	246	370	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	740	249	370	For each additional invention to be examined (37 CFR § 1.129(b))	
179	740	279	370	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify) _____					

SUBTOTAL (2) (\$ -0-)

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$40.00)

\*\* or number previously paid, if greater; For reissues, see above.

## SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	Michael R. Ward	Registration No. (Attorney/Agent)	(38,651)	Telephone	(415) 268-6237
Signature	Michael R. Ward			Date	January 16, 2002

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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# TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number Of Pages In This Submission

7

Application Number 60/262,308

Filing Date January 17, 2001

First Named Inventor George D. GIBSON

Group Art Unit none

Examiner Name none

Attorney Docket No. 499963000700

## ENCLOSURES (check all that apply)

 Fee Transmittal Form - 1 page (in dup) Assignment Papers (for an Application) After Allowance Communication to Group Fee Authorized to Charge Deposit Account. Drawing(s) Appeal Communication to Board of Appeals and Interferences Amendment / Reply Licensing-related Papers Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) After Final Petition Proprietary Information Affidavits/declarations Petition to Convert to a Provisional Application Status Letter Extension of Time Request Power of Attorney, Revocation  
Change of Correspondence AddressOther Enclosure(s) (please identify below): Request for Correction of  
 Inventorship Pursuant to 35 U.S.C. 116 & 37 C.F.R. § 1.48(d) - 2 pages; Statement by Erroneously Named Inventor - 2 pages; and Postcard Express Abandonment Request Terminal Disclaimer Information Disclosure Statement Request for Refund CD, Number of CD(s) \_\_\_\_\_ Certified Copy of Priority Document(s)

Remarks

 Response to Missing Parts/  
Incomplete Application Response to Missing Parts  
under 37 CFR 1.52 or 1.53

## SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual Name	Morrison & Foerster LLP 425 Market Street, San Francisco, CA 94105-2842 Michael R. Ward (Reg. No. 38,651)
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Signature	Michael R. Ward
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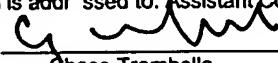
Date	January 16, 2002
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## CERTIFICATE OF MAILING BY "EXPRESS MAIL"

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Chase Trombella

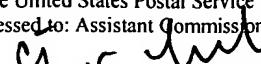
Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

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CHASE J. TROMBELLA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Nathan K. OLIVAS, et al.

Serial No.: TO BE ASSIGNED

Filing Date: HEREWITH

For: PACER LETTUCE VARIETY

Examiner: TO BE ASSIGNED

Group Art Unit: TO BE ASSIGNED

**SUBMISSION OF DATES OF FIRST  
SALE AND FIRST OFFER FOR SALE**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

As far as the undersigned can determine, the dates of first sale and first offer for sale for the lettuce variety, PACER, was as follows:

	<u>First Offer for Sale</u>	<u>First Sale</u>
PACER	August 14, 2000	August 14, 2000

Dated: January 16, 2002

Respectfully submitted,

By: 

Michael R. Ward  
Registration No. (38,651)

Morrison & Foerster LLP  
425 Market Street  
San Francisco, California 94105-2482  
Telephone: (415) 268-6237  
Facsimile: (415) 268-7522

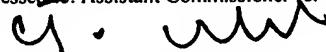
PATENT  
Docket No. 499963000700

**CERTIFICATE OF MAILING BY "EXPRESS MAIL"**

Express Mail Label No.: EL915578126US

Date of Deposit: January 16, 2002

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Chase Trombella

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In the application of:

George D. Gibson

Serial No.: 60/262,308

Filing Date: 01/17/2001

For: NEW LETTUCE VARIETIES

**REQUEST FOR CORRECTION OF INVENTORSHIP  
PURSUANT TO 35 U.S.C. 116 & 37 C.F.R. § 1.48(d)&(e)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

1. The presently named applicant, George D. Gibson, hereby petitions the Assistant Commissioner to enter the Amendment of the application submitted herewith to add the names of Nathan J. Olivas and Nathan K. Olivas as joint inventors and to remove George D. Gibson as an inventor.

Nathan J. Olivas and Nathan K. Olivas were erroneously omitted in the above application as co-inventors. George D. Gibson was erroneously named as an inventor. Under the present circumstances it is clear that Nathan J. Olivas and Nathan K. Olivas are the true inventors in this

case. The Patent and Trademark Office is respectfully requested to correct the inventorship.

This amendment has been promptly filed as soon as the inventorship error, made without deceptive intent, was discovered in the above application. In accordance with 37 CFR 1.48(d), the above statement of lack of deceptive intent regarding the addition of Nathan J. Olivas and Nathan K. Olivas is included in this Petition and is signed by Applicants' attorney. In accordance with 37 CFR 1.48(e), the statement of lack of deceptive intent regarding the deletion of George D. Gibson is attached.

2. The fee set forth in 37 C.F.R. § 1.17(q) of 130.00.

is enclosed  
 is authorized to be charged to Deposit Account 03-1952. A Fee

Transmittal (form PTO/SB/17) is enclosed in duplicate for that purpose.

It is believed that applicant has complied with requirements and correction of the inventorship in the present application is respectfully requested.

Respectfully submitted,

Dated: January 16, 2002

By:

Michael R. Ward  
Michael R. Ward  
Registration No. 38,651  
Morrison & Foerster LLP  
425 Market Street  
San Francisco, California 94105-2482  
Telephone: (415) 268-6237  
Facsimile: (415) 268-7522

PATENT  
Docket No. 499963000700

CERTIFICATE OF MAILING BY "EXPRESS MAIL"

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Chase Trombella

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

George D. Gibson

Serial No.: 60/262,308

Filing Date: 01/17/2001

For: NEW LETTUCE VARIETIES

**STATEMENT BY ERRONEOUSLY NAMED INVENTOR  
PURSUANT TO 35 U.S.C. 116 & 37 C.F.R. § 1.48(e)**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

I, George D. Gibson, was originally named an inventor of the above-referenced application. After further discussions with our attorney, it has become clear that I was named an inventor in error. The inventorship error was made without deceptive intent. Under the present circumstances it is clear that Nathan J. Olivas and Nathan K. Olivas are the true inventors in this application, and the Patent and Trademark Office is respectfully requested to remove me as an inventor.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and

that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date

George D. Gibson

George D. Gibson  
George D. Gibson

J. O. S. 2006, 30, 343–350

COPY

J1040 U.S. PTO  
10/052061  
01/16/02  


Attorney Docket: 499963000700  
Inventor(s): George D. GIBSON  
Title: NEW LETTUCE VARIETIES

File Date: January 17, 2001  
USSN: 60/262,308

1. Transmittal (1 page)
2. Fee Transmittal (1 page) in dup.
3. Request for Correction of Inventorship (2 pages)
4. Statement by Erroneously Named Inventor (2 pages)
5. This return receipt postcard.

Via Express Mail No. EL915578126US

Mailed: January 16, 2002

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